

## **Remarks**

### **I. General Remarks**

Claims 1, 3-7, 9-12, 14-18, and 20-22 are pending in this application. Claims 2, 8, 13, and 19 have been cancelled. Claims 1, 3, 9, 12, 14, and 20 have been amended herein.

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,179,161 to Kovens et al. (hereinafter "Kovens"). Claims 12-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,986,615 to Hieb et al. (hereinafter "Hieb"). Claims 1-5, 9-16, and 20-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,302,293 to Wittern, Jr. et al. (hereinafter "Wittern"). Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,529,207 to Oden, et al. (hereinafter "Oden"). Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hieb in view of Wittern.

Applicant respectfully traverses the rejections as set forth in more detail below. Applicant submits that each of the claims, as amended, includes allowable subject matter, and is in condition for allowance. Thus, Applicant respectfully submits that the rejections to the claims should be withdrawn, and the claims should be passed to issuance.

### **II. Remarks Regarding the 35 U.S.C. § 102(b) Rejections**

#### **A. Kovens Does Not Anticipate Applicant's Claims Because Kovens Does Not Teach Each and Every Limitation Recited in Applicant's Claims**

The Examiner has stated that the Applicant's arguments were effective in overcoming the rejections to claims 1-11 over Kovens, et al. (Office Action, p.10) Applicant respectfully submits that Kovens also does not anticipate Applicant's claims 12-22. Kovens, standing alone, does not contain each and every element of the claimed invention and as such, the

reference cannot anticipate Applicant's claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131.

In particular, Kovens fails to show a recited element of independent claim 12, a product dispensing assembly having a plurality of cutout slots and a retractable gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other. The cited portions of Kovens fail to teach or discuss a **retractable** gauge step, referring at best to a removable tray 108, and thus, Kovens fails to teach the required element of independent claim 12.

Because the cited reference does not teach a product dispensing assembly having a plurality of cutout slots and a **retractable** gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially **permanently** affixed to each other, the cited reference does not anticipate a **retractable** gauge assembly **permanently** affixed to the product dispensing assembly. In particular, a dispenser assembly affixed to a retractable gauge assembly prevents, for example, the use of removable parts (as in Kovens). *See e.g.*, Applicant's Specification at ¶¶ 13. This feature may allow for the elimination of delays and costs due to lost or misplaced removable parts. Thus, Kovens does not achieve the advantages of a retractable gauge step permanently affixed to the dispensing assembly.

Accordingly, Kovens cannot anticipate Applicant's claims. Thus, the rejection under 35 U.S.C. § 102(b) of claims 1-22 should be withdrawn, and these claims should be placed in a condition for allowance.

**B. Hieb Does Not Anticipate Applicant's Claims Because Hieb Does Not Teach Each and Every Limitation Recited in Applicant's Claims**

Claims 12-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,986,615 to Hieb et al. (hereinafter "Hieb"). Applicant respectfully submits that Hieb does not anticipate Applicant's independent claim 12. Hieb, standing alone, does not contain each and every element of the claimed invention and as such, the reference cannot anticipate Applicant's claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131.

In particular, Hieb fails to show a recited element of independent claim 12, a product dispensing assembly having a plurality of cutout slots and a retractable gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other. While Hieb appears to disclose certain ribs or ramps to guide vending products down a vertical vending chute, nowhere does Hieb teach a retractable gauge assembly. Specifically, the cited portion of Hieb at best teaches that the ribs or ramps may contain hooks, but nowhere does Hieb teach a **retractable** gauge step having a plurality of hooks coupled to a dispensing assembly. Additionally, the hooks which Hieb mentions are used to attach a base plate or ribs to a wall or ramp, not to attach a retractable gauge step to a dispensing mechanism. (Hieb, col. 9:12)

Because the cited reference does not teach a **retractable** gauge step having a plurality of hooks coupled to a dispensing assembly, the cited reference does not anticipate the present invention. In particular, a dispenser assembly affixed to a retractable gauge assembly prevents, for example, the use of removable parts. *See e.g.*, Applicant's Specification at ¶¶ 13. This feature may allow for the elimination of delays and costs due to lost or misplaced removable

parts. Thus, Hieb does not achieve the advantages of a retractable gauge step permanently affixed to the dispensing assembly.

Accordingly, Hieb cannot anticipate Applicant's claims. Thus, the rejection under 35 U.S.C. § 102(b) of claims 12-22 should be withdrawn, and these claims should be placed in a condition for allowance.

**C. Wittern Does Not Anticipate Applicant's Claims Because Wittern Does Not Teach Each and Every Limitation Recited in Applicant's Claims**

Claims 1-5, 9-16, and 20-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,302,293 to Wittern, Jr. et al. (hereinafter "Wittern"). Applicant respectfully submits that Wittern does not anticipate Applicant's independent claims 1 and 12. Wittern, standing alone, does not contain each and every element of the claimed invention and as such, the reference cannot anticipate Applicant's claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131.

In particular, Wittern fails to show a recited element of independent claims 1 and 12, a product dispensing assembly having a plurality of cutout slots and a retractable gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other. This limitation was taken from dependent claims 8 and 19, claims which the Examiner has not rejected as being anticipated by Wittern. As such, Wittern does not anticipate independent claims 1 and 12, as they now contain the limitations of independent claims 8 and 19, respectively.

Because the cited reference does not teach a retractable gauge step having a plurality of hooks coupled to a dispensing assembly, the cited reference does not anticipate the

present invention. In particular, a dispenser assembly affixed to a retractable gauge assembly prevents, for example, the use of removable parts. *See e.g.*, Applicant's Specification at ¶¶ 13. This feature may allow for the elimination of delays and costs due to lost or misplaced removable parts. Thus, Wittern does not achieve the advantages of a retractable gauge step permanently affixed to the dispensing assembly.

Accordingly, Wittern cannot anticipate Applicant's claims. Thus, the rejection under 35 U.S.C. § 102(b) of claims 1-5, 9-16, and 20-22 should be withdrawn, and these claims should be placed in a condition for allowance.

**D. Oden Does Not Anticipate Applicant's Claims Because Oden Does Not Teach Each and Every Limitation Recited in Applicant's Claims**

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,529,207 to Oden, et al. (hereinafter "Oden"). Applicant respectfully submits that Oden does not anticipate Applicant's independent claims 1 and 12. Oden, standing alone, does not contain each and every element of the claimed invention and as such, the reference cannot anticipate Applicant's claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131.

In particular, Oden fails to show a recited element of independent claims 1 and 12, a product dispensing assembly having a plurality of cutout slots and a retractable gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other. The cited portions of Oden discuss retainers which adjustably connect *compartment walls*. (Oden, col: 4, lines 15-30). This fails to teach a product dispensing assembly having a plurality of cutout slots and a **retractable gauge** step having a plurality of hooks, wherein the cutout slots and the

hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other.

Because the cited reference does not teach a retractable gauge step having a plurality of hooks coupled to a dispensing assembly, the cited reference does not anticipate the present invention. In particular, a dispenser assembly affixed to a retractable gauge assembly prevents, for example, the use of removable parts. *See e.g.*, Applicant's Specification at ¶¶ 13. This feature may allow for the elimination of delays and costs due to lost or misplaced removable parts. Thus, Wittern does not achieve the advantages of a retractable gauge step permanently affixed to the dispensing assembly.

Accordingly, Oden cannot anticipate Applicant's claims. Thus, the rejection under 35 U.S.C. § 102(b) of claims 1-22 should be withdrawn, and these claims should be placed in a condition for allowance.

### **III. Remarks Regarding the 35 U.S.C. § 103(a) Rejections**

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hieb in view of Wittern. Applicant respectfully traverses.

A prima facie case of obviousness requires a showing that all claim limitations be taught or suggested by the art. M.P.E.P. § 2143.03. Applicant respectfully submits that the cited references fail to establish a prima facie case of obviousness in that, even if combined, they still fail to teach each and every limitation of the Applicant's independent claims 1 and 12.

In particular, neither reference teaches a recited element of independent claims 1 and 12, a product dispensing assembly having a plurality of cutout slots and a retractable gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the

gauge step and the dispensing assembly are substantially permanently affixed to each other. Wittern does not teach this element, and Hieb fails to remedy this deficiency, as discussed above.

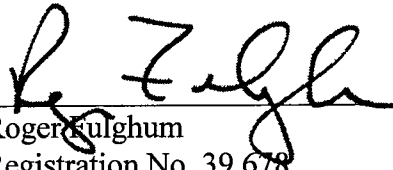
Because the cited combination of references does not teach or suggest a product dispensing assembly having a plurality of cutout slots and a **retractable** gauge step having a plurality of hooks, wherein the cutout slots and the hooks are coupled such that the gauge step and the dispensing assembly are substantially permanently affixed to each other, the present invention is not obvious over the combination. In particular, a dispenser assembly permanently affixed to a retractable gauge assembly prevents, for example, the use of removable parts. *See e.g.*, Applicant's Specification at ¶¶ 13. This feature may allow for the elimination of delays and costs due to lost or misplaced removable parts. Thus, the combination of Hieb and Wittern does not achieve the advantages of a retractable gauge step permanently affixed to the dispensing assembly.

In summary, a prima facie case of obviousness has not been established with reference to the rejected claims. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of claims 1-22 be withdrawn, and these claims should be allowed.

**Conclusion**

Applicant respectfully submits that the rejection of claims 1, 3-7, 9-12, 14-18, and 20-22 should be withdrawn, and these claims should be passed to issuance.

Respectfully submitted,

  
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